

April 9, 2019
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held Tuesday, April 9, 2019 at 1:00 P.M. in City Council Chambers, City of Erie Municipal Building, 626 State Street, Erie, PA.

-- MINUTES --

- 1. MEETING CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. INTRODUCTION OF NEW ZONING HEARING BOARD MEMBER, JOHN REITINGER.**
- 4. ROLL CALL AND DECLARATION OF QUORUM**

Member Name	Present	Absent
Ed Dawson		X
Mike Hornyak	X	
Selena King	X	
John Reitinger	X	
Jeffery Johnson	X	

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,196 by Ken Bluska (5376-106) concerning property located at 809 East 38th Street within a C-1 Local Commercial Zoning District and commonly known as the Cornerstone Bar & Grill. The appellant is seeking a dimensional variance from the required front yard setback. Per Section 205.26 of the Erie City Zoning Ordinance, the existing non-conforming building line, with a setback of 14', must be maintained. The appellant is proposing a 4' front yard setback.

Findings of Fact

1. The appellant and co-owner of the property, Mr. Ken Bluska, appeared at the hearing together with the architect for the proposal, Mr. Tom Grosz, and told the Board that the appellants are proposing a change to the exterior design of their East 38th and Pine Avenue establishment, the Cornerstone Bar & Grill. The appellants are seeking a dimensional variance for the establishment's East 38th Street setback requirement, in

order to build an exterior deck to meet the growing demand in recent years for outdoor dining.

2. The appellants have owned the Cornerstone Bar & Grill for a little over two years, and in that time have placed an emphasis on food service. Mr. Bluska told the Board that the appellants consider themselves a restaurant above all else, seeking to be one of the top destinations on Erie's east side for good food and convenient service.
3. The architect, Mr. Grosz, told the Board that the only other nearby establishment that offers outdoor dining facilities is the neighboring Tim Hortons. With many students from nearby colleges, together with their families, making up a considerable portion of the Cornerstone's business, there has become a significant demand in recent years to offer outdoor dining. The appellant's hope to meet that demand with the outdoor deck.
4. The proposed deck would be approximately 32' long, and 16' wide at its longest point. Using plot plans that were included with the appellant's application, Mr. Grosz showed the Board how the deck would gradually narrow from its widest point of 16', but would be handicapped and wheelchair accessible, as the interior of the facility also is.
5. The proposed deck could hold as many as 12 tables, but that the appellants would likely begin with only 5 or 6 tables at first, determining how the flow of patrons will be affected by the narrowing contour of the deck.
6. Mr. Bluska told the Board that the unusual shape of the proposed deck is in part a result of the unique, triangular-like shape of the property owner's entire lot. Having the deck located in its proposed location, along the side of the main building, is essential, he said, to meet the expected demand that the appellants expect to create with their outdoor dining tables.
7. While the appellants believe that this location is the option that best satisfies the reasons for the proposal, the new deck would nonetheless encroach on to the parking area of the establishment. However, Mr. Bluska said that the proposed deck would only remove four (4) parking spaces.
8. Erie City Zoning Office official Jenna Bisel told the Board that the City Ordinance determines the required number of off-street parking spots is based on the number of seats in the establishment. The ratio, she said, is 4 to 1 (one parking spot for every four seats). This figure, however, is determined by the number of seats inside the establishment. For purposes of off-street parking for the Cornerstone, the proposed deck would be considered temporary.
9. Mr. Bluska said that in response to the reduced number of parking spots at the Cornerstone, the appellants have made an arrangement with Theresa's deli, which is located directly across East 38th Street. Theresa's has primarily a daytime business, whereas the appellant's establishment's peak hours would be approximately from 5:00 to 8:00 p.m.
10. Speaking in support of the proposed renovation to the Cornerstone Bar & Grill is nearby east side resident Mrs. Kathleen Schaaf. Mrs. Schaaf told the Board that she and her

husband are among the patrons who enjoy eating outdoors, as the appellants had indicated. She added that her daughter had attended nearby Mercyhurst College, and spoke very favorably about the dining experience that her and her friends enjoyed at the Cornerstone. For these reasons, Mrs. Schaaf said that she supports the proposal

Conclusions

1. The appellants are the owners and operators of the Cornerstone Bar & Grill, a nonconforming dining establishment located on the corner of East 38th Street and Pine Avenue. The establishment and adjacent parking area is located on an unusual, triangle-like shaped lot.
2. The appellants are proposing to construct an outdoor deck, 32' long, and at its widest point 16' wide. The width of the proposed deck would taper from 16' down to approximately 4' to 8' at its narrowest point, but would be handicapped accessible.
3. There is a growing demand for outdoor dining on the City's east side, and the proposed deck is in the best location where it could meet the expected increase in customers.
4. The proposal would leave a four foot setback on the north/west property line. According to Section 205.26 of the Erie City Zoning Ordinance, the existing non-conforming building line must have a setback of at least 14'.
5. The parking spaces that would be lost if the proposed variance is approved would not be an issue, as the City Ordinance requires a four to one ratio of parking spaces per seats, but includes only seats on the inside of the establishment. Additionally, the appellants have an arrangement where their patrons can use the parking lot of another business across East 38th Street if necessary.

Decision

By a unanimous decision the Board denied the request for the dimensional variance. Citing several reasons, including the potential hazards that the new deck would create due to its unusual and narrow design, the danger associated with patrons crossing a busy street, and the parking problems, among other concerns, Board members Mike Hornyak, Selena King, Jeffrey Johnson and John Reitingger all voted to deny the appellant's variance request.

It is So Ordered.

Appeal 12,197 by Jason Francis (5003-111) concerning property located at 2416 French Street, within a C-2 General Commercial zoning district. The appellant is seeking a use variance to operate a contractor's yard on this property. Per Section 204.16 of the Erie City Zoning Ordinance, contractor's yards are not a permitted use in the C-2 district.

Findings of Fact

1. The Appellant, Jason Francis, owns and operates a landscaping business, and is seeking a variance in order to store vehicles and equipment in the backyard property of the French Street property that he owns.
2. Mr. Francis proposes to erect a garage in the rear of the property - which presently has a house located on it – that would be large enough for his storage needs, but still be residential in style, so as not to alter the character of the neighborhood. Additionally, he said that the garage would be out of plain view of passersby, and that he would install either fencing, shrubberies, or some other type of screening to further keep the new structure from having a negative impact on the area.
3. Using both a photograph of the property, and an aerial view of the immediate east side area, the appellant explained to the Board that there would be no sales or other business-related activity conducted at the location. He only wants to put a garage on his property, which is located in an area that has in recent years become more business/commercial in nature (French Street from East 24th south to East 26th Street).
4. The appellant is unsure how big a garage he would be permitted to build, based on Erie City building codes, so he cannot guarantee that there would never be a vehicle parked in the driveway or on the street. However, he reiterated that there would be no business conducted on the site, just storage, and if any of his employees may park on the street, it would likely be on a short-term basis during the work day hours.

Conclusions

1. The appellant owns and operates a landscaping business. He also owns a residential-type property with a house on it on the 2400 block of French Street, in a C-1 zoning district.
2. The appellant proposes to erect a garage in the rear of the property for the purpose of storing vehicles and equipment for his landscaping company. There would be no business conducted at the site; it would be used only for storage.
3. According to Section 204.16 of the Erie City Zoning Ordinance, contractor's yards are not a permitted use in the C-2 district.
4. The proposal would not alter the character of the neighborhood; the area has changed in recent years, and is more commercial in nature. Additionally, the appellant has indicated that he would be willing to install any type of screening (e.g. shrubbery, a fence, etc...) to shield the proposed garage.

Decision

The variance request was denied by a two to two vote of the Board. Board members Mike Hornyak and Selena King voted to approve the request, with Ms. King indicating that she would require the screening to be a condition of her vote. Members John Reitingger and Jeffrey Johnson voted to deny the request, with Mr. Reitingger adding that he was concerned that the garage would eventually overflow with storage equipment, given the limited space upon which it must be constructed.

It is So Ordered.

Appeal No. 12,198 by Ronald Fernandez (6004-204) regarding property located at 2416 Peach Street with access via the rear alley between West 24th and 25th Streets. This property is within a C-4, Traditional Neighborhood Commercial zoning district. The appellant is seeking a use variance to operate an auto repair shop at this location. Per Section 204.18 of the Erie City Zoning Ordinance, auto repair uses are not permitted in the C-4 zoning district.

Findings of Fact

1. The appellant is the property owner, Mr. Ronald Fernandez, who currently resides in Fort Worth, Texas. Mr. Fernandez, who appeared at the hearing on his own behalf, is also the owner of six adjacent properties between West 24th and 25th Streets (facing Peach Street), and presently occupied by small businesses. The variance is being requested for a property located behind one of the Peach Street businesses, in an alley that runs parallel to Peach Street along the entire length of the block (24th to 25th Streets).
2. Mr. Fernandez told the Board that he is seeking the variance in order to operate an auto repair garage in the alley behind the buildings on Peach Street; a garage he said, that would not provide either oil changes or body work.
3. The appellant pointed out to the Board that if the property in question was in a C-2 zoning district, as much of lower Peach Street is, the proposal would be permitted. He said that there are many such auto repair operations on Peach Street all the way down to 12th Street, as well as auto supply businesses on both sides of the street, including a large operation at the busy intersection of West 26th and Peach Streets.
4. The proposed shop would not be on Peach Street itself, as previously stated, but rather in the rear alley. The proposed operators of the auto repair shop are already tenants of the appellant – a husband and wife who operate one of the appellant’s commercial rental stores on Peach Street. Their goal, as entrepreneurs, is to utilize unused space in the rear of their business. The alley is already utilized in several ways by St. Vincent Health Center, St. Joseph Church and community center, as well as other neighboring interests;

therefore, the appellant claims that the proposal in the busy alley area would not alter the character of the neighborhood.

5. The proposed tenants, co-owners Shamon Cheripka and Jim Burns (husband and wife) also appeared to testify before the Board. Ms. Cheripka reiterated much of what Mr. Fernandez had already told the Board regarding the property and the proposal. She said that their current storefront business on Peach Street is open from 11:00 a.m to 5:00 p.m., Tuesday thru Saturday, and that the garage would operate from 7:00 a.m. to 4:30 p.m., Monday thru Saturday. Ms. Cheripka also confirmed that the garage would limit its services to minor repairs and inspections; but did indicate that it is likely to have cars parked in the alley overnight on occasion, while awaiting servicing the next day.
6. There were also several witnesses who testified in opposition to the proposal, citing a variety of reasons for their objections. Included among those opposition witnesses were representatives from the Sisters of St. Joseph Neighborhood Network (hereafter referred to as "SSJ"), including Sister Phyllis Hilbert, Mr. Wally Brown and Ms. Gretchen Gallagher. Ms. Gallagher, reading from a prepared statement that was presented as an exhibit to the record, stated several reasons supporting the opposition to the proposal, principally centered around the fact that the appellants have not demonstrated any hardships, as required by the City Code, that would justify the variance request.
7. Ms. Gallagher told the Board that the property in question is located in a commercial district historically known as "Federal Hill" (the area on Peach Street running approximately from West 26th north to the former railroad tracks, what is now West 19th Street) . She said that for many years numerous businesses have operated successfully in this C-4 zoning area, without negatively affecting the neighborhood, and that the SSJ and other neighborhood interests would cooperate with the appellants, if they presented a more suitable and appropriate business proposal.
8. Mr. Brown, also speaking on behalf of the SSJ, said that the appellants have in fact been illegally operating the auto shop for over a year. Mr. Brown said that in addition to the fumes, noise and other hazardous conditions created by the auto repair shop, the new proposed shop would create a fire hazard, citing the dozen or more times that the Fire Dept. was summoned at the auto shop's previous location. Additionally, he said that despite what the prospective owners had testified to, the auto shop would have cars parked in the alley-way, restricting the use of the alley for all other neighborhood residents.
9. Other Peach Street residents and business owners also testified, including Ms. Jeanette Geaneraski, who occupies one of the retail stores facing Peach. She told the Board that for many of the reasons stated by other parties, the auto shop would negatively affect the Peach Street commercial corridor, which has experienced a great renovation in recent years, due in part to grants from public and private groups who all have an interest in revitalizing the area.

10. Similarly, Pastor Erik Young of nearby St. John's Lutheran Church, told the Board that the "Federal Hill District" is not a dying area, but actually an up and coming commercial community that has experienced a renovation in recent years. This revitalization is in large part to a commitment from neighborhood, business and community leaders who want to see the effort moving forward; he too believes that the proposed auto shop would be taking step backward

Conclusions

1. The appellant is seeking a use variance in order to operate an auto repair shop in an alley, on a property where a garage currently sits. The alley is parallel to Peach Street for several blocks north of West 26th Street; with the subject property located between 24th and 25th Streets.
2. The appellants claim that the auto shop would only do small repair jobs and auto inspections. There would be no body work, oil changes, or any other jobs that would create fumes, noise or other hazardous conditions that would negatively affect the surrounding area.
3. The proposed shop is within a C-4, Traditional Neighborhood Commercial zoning district, and is located behind several small, retail business fronts facing Peach Street (the proposed operators of the auto shop are currently tenants in one of those retail shops on Peach Street).
4. According to Section 204.18 of the Erie City Zoning Ordinance, auto repair uses are not permitted in the C-4 zoning district.
5. Several neighborhood and concerned community members are strongly opposed to the proposal, citing the noise, fumes and other hazardous conditions they believe will result from the operation of an auto garage; and claiming that the appellants have not stated any hardships as required in order for the variance to be approved.

Decision

By a unanimous decision, with one abstention, the Board voted to deny the variance request. Board member Mike Hornyak said that he thinks the proposed repair shop is a bad fit for the neighborhood. He said that he is familiar with these type of "alley-related" repair businesses, and the hazards they present. After hearing from the witnesses who voiced their concerns about several potential hazards, he said he could not be comfortable approving the variance. Similarly, Board members Selena King and John Reitingger both cited health and safety concerns associated with the proposed shop. All three Board members voted to deny the variance request. Board chairman Jeffrey Johnson abstained from the vote.

It is so Ordered.